



33 N. Stone Avenue, Suite 700  
Tucson, Arizona 85701-1429  
[www.pima.gov/deq](http://www.pima.gov/deq)

Ursula Kramer Nelson, P.E.  
Director

(520) 724-7400  
FAX (520) 838-7432

November 10, 2020

Tucson Iron & Metal  
Attn: Gary Kippur, President  
PO Box 28898  
Tucson, AZ 85726-8898

**CERTIFIED MAIL**  
**Return Receipt Requested**

## **NOTICE OF VIOLATION # 127-0009T**

The Pima County Department of Environmental Quality (PDEQ) has reason to believe Tucson Iron and Metal, a division of Kippur Corporation, has violated requirements of Title 40 of the Code of Federal Regulations, PDEQ Air Quality Permit #127, and Title 17 of the Pima County Code.

### **I. ALLEGED VIOLATIONS – APPEALABLE AGENCY ACTIONS**

#### **FINDINGS OF FACT**

##### **Alleged Violation #1**

Per 40 CFR 60.2923 and Section 3.55 (Performance Test Compliance Demonstration) of Pima County Department of Environmental Quality Air Quality Permit # 127;

40 CFR 60.2923

*You use results of performance tests to demonstrate compliance with the emission limitations in table 1 of this subpart.*

Section 3.55 [PCC 17.11.210 & PCC 17.20.010]

*The Permittee shall use the results of performance tests to demonstrate compliance with the emission limitations in table 1 of this subpart.*

### **Findings**

Tucson Iron and Metal conducted their annual performance testing of the Other Solid Waste Incinerator (OSWI) unit at the facility located at 4484 E. Tennessee Street, Tucson, Arizona, on September 9-10, 2020. Tucson Iron and Metal failed the emission limitation for Dioxins/Furans during the annual performance test. The emission limitation in table 1 of subpart EEEE of 40 CFR 60 has an emission limitation of 33 nanograms per dry standard cubic meter (ng/dscm) and the performance test result was 132 ng/dscm.

### **Requested Corrective Actions**

Conduct a retest at maximum design capacity for the failed air pollutant, Dioxins/Furans, within 30 days of receipt of this Notice of Violation to demonstrate compliance. Provide written notification in advance of the performance test. Also, provide a justification for correcting the reported Dioxin/Furans emissions (diverting from the Method 23 Total Basis) by using the 2005 WHO TEF emission factors in your emission calculations.

### **Alleged Violation #2**

Per Pima County Code 17.12.170 and General Conditions 11.a of Pima County Department of Environmental Quality Air Quality Permit # 127;

Pima County Code 17.12.170 and General Conditions 11.a

*A. The owner or operator of any source shall report to the control officer any emissions in excess of the limits established by this chapter or the applicable permit. The report shall be in two parts as specified below:*

*1. Notification by telephone or facsimile within twenty-four hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection B.*

*2. Detailed written notification by submission of an excess emissions report within seventy-two hours of the notification under subsection (A)(1).*

*B. The excess emissions report shall contain the following information:*

*1. The identity of each stack or other emission point where the excess emissions occurred;*

*2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;*

*3. The time and duration or expected duration of the excess emissions;*

*4. The identity of the equipment from which the excess emissions emanated;*

*5. The nature and cause of the emissions;*

*6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;*

*7. The steps that were or are being taken to limit the excess emissions; and*

*8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.*

*C. In the case of continuous or recurring excess emissions, the notification requirements*

*of this section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections A and B.*

### **Findings**

Tucson Iron and Metal conducted their annual Performance Testing at the facility located at 4484 E. Tennessee Street, Tucson, Arizona, on September 9-10, 2020. Tucson Iron and Metal failed the Dioxins/Furans emission limitation and failed to report the excess emission to Pima County Department of Environmental Quality. Excess emissions must be reported to PDEQ within 24 hours of the excess emission via phone or email and a detailed report must be submitted to PDEQ within 72 hours of the notification.

### **Requested Corrective Actions**

Provide a detailed written report and corrective actions to correct the excess emission and prevent it from occurring in the future. The report shall contain the location of the emission point; the magnitude of the emission; the date, time, and duration of excess emission; identify the equipment the emission emanated from; the nature and cause of the emissions, and the steps that were taken or are being taken to limit the excess emissions.

## **II. CITATION OF AUTHORITY**

Arizona Revised Statutes § 49-513

Pima County Code § 17.28.070

## **III. REQUESTED COMPLIANCE DOCUMENTATION**

Tucson Iron & Metal shall submit a written response to PDEQ within **seven (7)** calendar days of receipt of this notice. The response shall include:

- A thorough explanation of those actions that led to the violation
- Planned corrective actions and timeframe to be taken to meet compliance
- Proposed corrective actions to prevent future violations

The above documentation shall be deemed "submitted" when received by PDEQ at the following address:

Pima County Department of Environmental Quality  
33 N. Stone Avenue, Suite 700  
Tucson, AZ 85701-1429  
Attn: Jackie Ronstadt

Or via email:

[Air.Notices@pima.gov](mailto:Air.Notices@pima.gov) with Subject: NOV # 127-0009T

#### **IV. STATEMENT OF CONSEQUENCES**

Failure to achieve compliance or enter into a Consent Order will result in PDEQ initiating a unilateral enforcement action. Achieving compliance does not preclude PDEQ from seeking civil penalties. A unilateral enforcement action may result in a civil penalty. A civil penalty may be imposed for each violation for the entire non-compliance period.

PDEQ believes the alleged violations identified in the Notice of Violation (NOV) are significant and advises you they may be used to determine a pattern of non-compliance or used to determine civil penalties pursuant to A.R.S. § 49-513. As such, PDEQ believes that NOV violations are appealable agency actions as defined in A.R.S. § 49-471(4).

A person whose legal rights, duties or privileges were determined by an appealable agency action or who will be adversely affected by an appealable agency action and who exercised any right to comment on the action provided by law, rule or ordinance may appeal the action to the air pollution hearing board established pursuant to A.R.S. § 49-478.

#### **V. ADMINISTRATIVE INFORMATION**

##### **OFFER TO MEET**

PDEQ personnel are willing to schedule a meeting to discuss the NOV and corrective actions. If you would like to meet, please contact me at (520) 724-7400. Before meeting, please submit the following:

- An agenda that specifies the objectives you wish to discuss.
- The names and affiliations of the participants that will be accompanying you.

##### **COMPLIANCE ASSISTANCE**

PDEQ personnel are also willing to help you achieve and maintain compliance. If you need assistance complying with the regulations please contact our department at (520) 724-7400.

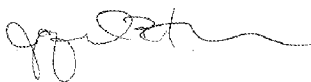
**NOTICE OF NON-DISCRIMINATION**

The Pima County Department of Environmental Quality does not discriminate on the basis of race, color, national origin, sex, disability religion, or age in its programs or activities in accordance with applicable laws and regulations. Further, any person who is in need of special services (e.g., written material in large type, signer for the hearing impaired, or for free assistance in Spanish), please contact PDEQ's Environmental Justice Program Manager, Beth Gorman, 33 N. Stone Avenue, Suite 700, Tucson, Arizona, 85701, Phone (520) 724-7446, email [beth.gorman@pima.gov](mailto:beth.gorman@pima.gov).

**AVISO DE NO DISCRIMINACIÓN**

El Departamento del Condado de Pima de Calidad Ambiental no discrimina en base de la raza, el color, el origen nacional, el sexo, la religión, discapacidad, o la edad en sus programas o actividades de acuerdo con leyes y regulaciones aplicables. Además, cualquier persona que esté necesitando los servicios especiales (e.g., material escrito en letra grande, intérpretes de lenguaje con señas, o para obtener asistencia gratuita en español), por favor contacte a la encargada del Programa de Justicia Ambiental del Departamento Calidad Ambiental del Condado de Pima, Beth Gorman, 33 N. Stone Avenue, Suite 700, Tucson, Arizona, 85701, teléfono (520) 724-7446, email [beth.gorman@pima.gov](mailto:beth.gorman@pima.gov).

Sincerely,



Jackie Ronstadt  
Air Compliance Manager

cc: Gary Kippur, President, Tucson Iron and Metal [gary@tucsoniron.net](mailto:gary@tucsoniron.net)  
PDEQ File #: 127-0009T